IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 26288 of 2007(D)

AGAINST THE ORDER DATED / / IN IA 1286/2007 IN OS.171/2007 of M.C.,PARAPPANANGADI

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PETITIONER:

K.MUSTHAFA, S/O.MAMMED,
AGED 35 YEARS, TEACHER, MUTTAYIL THODI,
CHENAKKALANGADI, THENHIPALAM AMSOM DESOM,
TIRURANGADI TALUK.

BY ADV. SRI.C.KHALID
SRI.R.O.MUHAMED SHEMEEM

RESPONDENTS:
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1. K.P.ABDUL JABBAR, AGED 57 YEARS,
S/O.AHAMED KUTTY MUSLIAR, PARANTHODI,
CHENAKKALANGADI, TENHIPALAM AMSOM DESOM.

2. T.P.MUHAMMED ALIAS CHINNAKUTTY HAJI,
S/O.IMBICHIKOYA, AGED 60 YEARS, OWN OCCUPATION,
MANGATTU HOUSE, AREEPARA CHENAKKALANGADI,
THENHIPALAM ASMOM DESOM.
3. P.K.FAISAL, S/O.K.T.MUHAMMED MASTER,
KURUKKANKANDATHIL HOUSE, OWN OCCUPATION,
CHENAKKALANGADI, AGED 35 YEARS, THENHIPALAM
AMSOM DESOM.
4. ANVAR.T.P., AGED 35 YEARS,
S/O.IMBICHIKOYA, OWN OCCUPATION,
THEKKORATH HOUSE, KELATTODU, CHENNAKKALANGADI,
THENHIPALAM AMSOM DESOM, TIRURANGADI TALUK.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW
SRI.HABEEB REHMAN PANAMPARA KOTTAMPARAMB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

Petitioner's Exts:

Ext.P1 true copy of the plaint in the suit.,

Ext.P2 true copy of the injunction order.

Ext.P3 true copy of the counter affidavit.

Ext.P4 true copy of the order dated 24.8.2007.

Ext.P5 true copy of the agreement by the civil court in O.S.No.568 of 2002

Ext.P6 true copy of the election receipt.

Ext.P7 true copy of the resolution by Hussain Madavoor group.

M.N.Krishnan, J.

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W.P(C).No.26288 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to set aside Ext.P4 order passed by the Munsiff, Parappanangadi in I.A.No.1286 of 2007 in O.S.No.171 of 2007. It is unfortunate that the learned Munsiff has passed such an order. An ex parte order of injunction was granted. The other side entered appearance and filed counter. The proper procedure for the court was to pass a considered order under Order 39 Rule 4. But the court did not apply its mind and just held that prima facie it appears that the suit is not maintainable. So far as the maintainability of the suit is concerned, the court should have a definite view whether it is maintainable or not rightly or wrongly.

2. The court cannot go on changing by passing an order of this nature. Therefore, this is an order, which requires interference under Article 227 of the Constitution of India and

therefore, it is set aside. I am informed that the matter is posted on 11.9.2007. I direct both the parties to get ready and complete the arguments; so that there can be a full-fledged disposal of the I.A. in accordance with law. The learned Munsiff shall dispose it of within two weeks from 11.9.2007.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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